

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201905797	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/02/2019 5:49 PM	Location of Incident: Lewis Avenue between Pulaski Avenue and Dekalb Avenue	Precinct: 81	18 Mo. SOL 1/2/2021	EO SOL 8/19/2021	
Date/Time CV Reported Tue, 07/02/2019 7:00 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 07/02/2019 7:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Roberts	22652	962735	PSA 3
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Samet Gulu	20301	958663	PSA 3
2. POM Isaac Souchak	20508	959263	PSA 3
3. POF Delinda Giraldo	21529	953911	PSA 3
4. POM Steven Guerrero	12693	966089	H MAN

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b)	
B.POM Daniel Roberts	Abuse: Police Officer Daniel Roberts refused to provide his name to § 87(2)(b)	
C.POM Daniel Roberts	Abuse: Police Officer Daniel Roberts refused to provide his shield number to § 87(2)(b)	

Case Summary

On July 2, 2019, § 87(2)(b) filed the following complaint via the CCRB's online complaint form.

On July 2, 2019, at approximately 5:49 p.m., § 87(2)(b) was sitting on the stoop of 92 Lewis Avenue in Brooklyn, when he saw Police Officer Isaac Souchak, Police Officer Samet Gulu, and Police Officer Daniel Roberts, all assigned to PSA 3, chasing after § 87(2)(b). As § 87(2)(b) and the officers ran past § 87(2)(b)'s location, another unit, comprised of Police Officer Delinda Giraldo and Police Officer Steven Guerrero, also assigned to PSA 3, approached from the opposite direction, and stopped § 87(2)(b) in front of 109 Lewis Avenue. After surrounding him against a metal gate, the officers allegedly threw § 87(2)(b) on the ground (**Allegation A: Force-Physical**, § 87(2)(g)). After § 87(2)(b) was handcuffed, § 87(2)(b) approached as the officers were placing § 87(2)(b) into the a marked RMP on scene, and asked PO Roberts for his name and shield number, which he refused to provide (**Allegations B and C: Abuse of Authority-Refusal to Provide Name/Shield Number**, § 87(2)(g)).

The investigation was apprised of the existence of six Body-Worn Camera ("BWC") videos reflective of this incident, however, the CCRB was unable to obtain them as the underlying criminal case has been sealed, and § 87(2)(b) did not cooperate with the investigation (BR02). Additionally, despite submitting a timely request for CCTV footage from a nearby TARU camera, the footage provided by IAB was not reflective of the incident time, and thus wholly irrelevant and unusable to the investigation.

Findings and Recommendations

Allegation A—Force: Officers used physical force against § 87(2)(b)

On July 2, 2019, at approximately 5:49 p.m., § 87(2)(b) was sitting on the stoop of 92 Lewis Avenue in Brooklyn, when he observed several uniformed officers, identified through the investigation as PO Souchak, PO Gulu, and PO Roberts, chasing a young black male, identified through the investigation as § 87(2)(b) from Hart Street toward his location (BR01). § 87(2)(b) denied that the officers gave any orders to § 87(2)(b) while they were in pursuit of him.

As § 87(2)(b) and the officers ran past § 87(2)(b) a marked RMP, containing two additional uniformed officers, identified through the investigation as PO Guerrero and PO Giraldo, came from the opposite direction and stopped near the intersection of Lewis Avenue and Dekalb Avenue. § 87(2)(b) was approximately 70 feet away when PO Souchak, PO Gulu, and PO Roberts caught up with § 87(2)(b) and surrounded him in front of 109 Lewis Avenue.

Two of the officers each grabbed one of § 87(2)(b)'s arms, placed him up against a gate while he struggled and wrestled with the officers, and tried to escape. § 87(2)(b) initially stated that the officers wrestled § 87(2)(b) to the ground, and then handcuffed him, however, he repeatedly altered his description of the force used by the officers to bring § 87(2)(b) to the ground. Ultimately, § 87(2)(b) was unable to specify how the officers brought § 87(2)(b) to ground, and did not observe any physical injuries on § 87(2)(b).

Despite several attempts to contact § 87(2)(b) to obtain a sworn statement in regards, § 87(2)(b) was not able to be reached, did not provide any kind of statement to the CCRB, and was ultimately unavailable to the investigation. As a result, the CCRB could not obtain a signed unsealing order for the identified BWC (BR02).

Arrest #§ 87(2)(b) (BR03), prepared by PO Gulu pursuant to § 87(2)(b)'s arrest, stated that on July 2, 2019, at approximately 5:48 p.m., PO Gulu and his partners observed § 87(2)(b) smoking a marijuana cigarette. Upon the officers' approach, § 87(2)(b) threw down the marijuana cigarette, evaded officers for approximately three blocks, and ignored multiple verbal commands to stop. After apprehending § 87(2)(b) wherein no use of force was documented as being employed, the marijuana cigarette was recovered from the scene. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) 160.50.

PO Souchak's (BR04), PO Gulu's (BR05), and PO Roberts' (BR06) statements were generally consistent, except where noted otherwise below.

On July 2, 2019, at approximately 5:48 p.m., PO Souchak, PO Gulu, and PO Roberts were on patrol, when they observed an § 87(2)(b) smoking a marijuana cigarette in front of 927 Dekalb Avenue in Brooklyn. As the officers approached, they detected the odor of marijuana, and when § 87(2)(b) saw the officers, he threw the marijuana cigarette down, and began to walk away. The officers followed § 87(2)(b) and ordered him to stop "15 [times] or more," but he continued to walk away and cursed at the officers. After approximately two blocks, in response to the officers' repeated orders, § 87(2)(b) told the officers he was not going to stop and that he did not do anything.

The officers followed § 87(2)(b) from 927 Dekalb Avenue to 375 Pulaski Avenue to 93 Lewis Avenue, and then to in front of 109 Lewis Avenue. PO Souchak saw a marked RMP, containing PO Guerrero and PO Giraldo, further up Lewis Avenue, and pointed out § 87(2)(b) to them. Because § 87(2)(b) was looking back at him and his partners, § 87(2)(b) did not see PO Guerrero and PO Giraldo approach him from the front. They grabbed him, and then placed him against an iron fence in front of 109 Lewis Avenue. The officers were consistent that upon being stopped, § 87(2)(b) flailed his arms, moved his torso, and refused to place his hands behind his back. PO Souchak, PO Gulu, and PO Roberts denied that they were involved in any forcible takedown of § 87(2)(b) and only assisted in handcuffing him.

PO Giraldo's (BR07) and PO Guerrero's (BR08) statements were generally consistent, except where noted otherwise below.

PO Giraldo and PO Guerrero received a radio run requesting assistance at the intersection of Dekalb Avenue and Lewis Avenue. When they arrived, they observed § 87(2)(b) being pursued by PO Souchak, PO Gulu, and PO Roberts.

PO Giraldo and PO Guerrero stopped § 87(2)(b) in front of 109 Lewis Avenue. Out of concern that § 87(2)(b) might break into a run, PO Guerrero immediately grabbed § 87(2)(b) and held him against a metal gate. Upon grabbing him, PO Guerrero said that § 87(2)(b) "stiffened up" his body. While PO Guerrero could not recall if he employed a forcible takedown against § 87(2)(b) or used any additional force besides placing him § 87(2)(b) against the metal gate (BR08), PO Giraldo initially stated that PO Guerrero employed a forcible takedown to overcome § 87(2)(b)'s resistance and prevent his escape, and denied that she assisted in the forcible takedown (BR07). However, when asked to describe how PO Guerrero specifically brought § 87(2)(b) to the ground, PO Giraldo clarified that § 87(2)(b) was not immediately brought to the ground, and ultimately, could not recall if § 87(2)(b) was ever fully brought to the ground.

Moments after placing § 87(2)(b) against the gate, PO Souchak, PO Gulu, and PO Roberts assisted in gaining control of and handcuffing § 87(2)(b). PO Guerrero denied throwing or forcibly bringing § 87(2)(b) to the ground, and stated that, if anything, it was more a guiding motion to facilitate handcuffing him (BR08).

All the officers consistently denied that § 87(2)(b) had any apparent injuries as a result of his arrest, denied that he complained of any pain or injury, and denied preparing any TRI reports due to their lack of employed force.

Officers may use force when it is reasonable to ensure the safety of a member of service, a third party, or otherwise protect life, or when it is reasonable to place a person into custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. Members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In situations in which this is not safe and/or appropriate, MOS will use only the reasonable force necessary to gain control or custody of a subject. Patrol Guide, Procedure 221-01 (BR09).

§ 87(2)(g)

§ 87(2)(g)

Allegation B—Abuse of Authority: Police Officer Daniel Roberts refused to provide his name to § 87(2)(b)

Allegation C—Abuse of Authority: Police Officer Daniel Roberts refused to provide his shield number to § 87(2)(b)

After § 87(2)(b) was handcuffed, the officers lifted § 87(2)(b) up and escorted him over to the marked RMP (BR01). § 87(2)(b) walked over to the group of officers and asked what § 87(2)(b) had done, however none of them responded. § 87(2)(b) then asked one of the officers, identified through the investigation as PO Roberts, from approximately 10 feet away, for his name and shield number. PO Roberts did not respond or provide his name or shield number to § 87(2)(b). § 87(2)(b) added that he did not know if PO Roberts had heard him. § 87(2)(b) took a short video with his cell phone after he had asked PO Roberts for his name and shield (BR10).

§ 87(2)(b) provided the investigation with the captured video, and indicated, during his CCRB interview, that the officer he requested identifying information from was the white male officer with a bald head, standing behind § 87(2)(b) as seen in the video. § 87(2)(b) did not provide the name or shield number of PO Roberts or any of the other involved officers' names or shield numbers when he filed this complaint.

PO Souchak's (BR04), PO Gulu's (BR05), PO Roberts' (BR06), PO Giraldo's (BR07), and PO Guerrero's (BR08) statements were consistent, except where noted otherwise below.

None of the officers recognized or recalled § 87(2)(b) being present for or witnessing this incident, nor recalled any civilians being present for, recording, or requesting information from them while lodging § 87(2)(b) in the marked RMP at the scene. Although, PO Giraldo later stated that she thought one or two individuals may have been on scene, she could not recall if they said anything to her or the other officers (BR07). Additionally, none of the officers recalled § 87(2)(b) requesting PO Roberts' or any other officer's name or shield number, and all of the officers denied that they refused to provide their name or shield number to § 87(2)(b) or any other civilian during the incident.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the third CCRB complaint in which § 87(2)(b) has been a party.
 - § 87(2)(b)
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- This is the first CCRB complaint in which § 87(2)(b) is party.
- PO Roberts, a three-year-member-of-service, has not had any prior CCRB complaints filed against him (see Officer History). § 87(2)(g).

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On January 13, 2020, a FOIL request was sent to the NYC Comptroller's Office for any Notice of Claim filed in regards to this incident, the results of which will be added to the case file upon receipt (BR11).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
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Squad No.: 7

Investigator: _____	_____	_____
Signature	Print Title & Name	Date

Squad Leader: _____	_____	_____
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date